

REMARKS

After entry of the foregoing amendment, claims 2 and 5-7 remain pending in the application.

The arguments presented earlier are maintained, but are not repeated here for brevity's sake.

The sole amendment, to claim 2 above, is responsive to the "appropriate correction is required" statement in the Final Action (page 4), and to put the application in better condition for appeal.

The Examiner is reminded that he never made the earlier restriction requirement "Final." Accordingly, applicants have not yet canceled claim 3.

The Examiner is requested to substantiate his assertion of "Official Notice" taken in the Final Action, so that same can be properly considered by the Board.

Regarding priority, it is undisputed that the filing date of the present application is October 25, 2000. However, any subject matter disclosed in the present application that was also disclosed in the priority application 60/134,782 is entitled to benefit of that application's earlier filing date. (Since the Examiner has not cited art with an effective date between these two dates, applicants decline to prolong the already extended prosecution file in this case by further addressing such points.)

The Examiner failed to return an initialed copy of the Form PTO-1449 filed on January 28, 2005, listing two papers by Kaye transmitted therewith, and is requested to do so.

And, again, the Examiner is requested to return an initialed copy of the Form PTO-1449 identifying the non-patent literature cited in the IDS filed September 15, 2003. As discussed with the Examiner in a brief phone discussion on November 11, 2004, such art was cited in compliance with PTO Rule 98.

A (second) Notice of Appeal will follow in due course.

Respectfully submitted,

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